

Pursuant to Ind. Appellate Rule 65(D),  
this Memorandum Decision shall not be  
regarded as precedent or cited before  
any court except for the purpose of  
establishing the defense of res judicata,  
collateral estoppel, or the law of the case.

APPELLANT PRO SE:

**WADE R. MEISBERGER**  
Pendleton, Indiana

ATTORNEYS FOR APPELLEE:

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Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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WADE RUSSELL MEISBERGER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 53A05-0703-CR-125
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MONROE CIRCUIT COURT  
The Honorable Mary Ellen Diekhoff, Judge  
Cause No. 53C05-9108-CF-457

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**July 16, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**ROBB, Judge**

Wade Meisberger was arrested on August 23, 1992, and jailed in Monroe County, Indiana. While awaiting trial, Meisberger enrolled and participated in Adult Education classes at the jail. On December 18, 1992, Meisberger took and passed the test to receive a General Educational Development diploma (“GED”). On May 5, 1993, Meisberger was sentenced to forty-eight years imprisonment for murder and transferred to the Indiana Department of Correction.

In December 2006, Meisberger filed a motion with the trial court for educational credit time,<sup>1</sup> seeking an award of 180 days of credit time for the completion of his GED pursuant to Indiana Code section 35-50-6-3.3. The trial court denied Meisberger’s motion. Meisberger subsequently filed a motion to correct error that the trial court also denied. Meisberger appeals, contending that the trial court erred in denying him the credit time.

Indiana Code section 35-50-6-3.3 provides that a person who is in credit class I, has demonstrated a pattern consistent with rehabilitation, and has successfully completed the requirements to obtain a GED may earn six months credit time. Ind. Code § 35-50-6-3.3(a), (d)(1). However, the statute also provides that “[a] person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.” Ind. Code § 35-50-6-3.3(f) (emphasis added). Meisberger does not dispute that he obtained his GED in December 1992. He is therefore not entitled to the educational credit time he seeks, and the trial court did not err in denying his motion.

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<sup>1</sup> We need not decide herein if this was the correct procedural mechanism for raising this issue. We do note, however, that the trial court determines the initial credit time when sentencing a defendant. Samuels

Affirmed.

SULLIVAN, J., and VAIDIK, J., concur.

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v. State, 849 N.E.2d 689, 692 (Ind. Ct. App. 2006), trans. denied. Meisberger obtained his GED prior to sentencing.